

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
Green Bay Division

DESIGN BASICS, LLC, et al.,

Plaintiffs,

vs.

Case No: 1:14-cv-1102-WCG

LEXINGTON HOMES INC., et al.,

Defendants,

and

ACUITY, A MUTUAL INSURANCE
COMPANY,

Intervenor Defendant.

***JOINT CIV. L.R. 7(h) EXPEDITED NON-DISPOSITIVE MOTION TO
AMEND THE SCHEDULING ORDER***

The Plaintiffs, Design Basics, LLC (“DB”), Prime Designs, Inc. (“PDI”), and Plan Pros, Inc. (“PPI”), by their attorneys, Dana A. LeJune and Michael T. Hopkins; the Defendants, Lexington Homes, Inc. (“LHI”), Team Stimpson, LLC (“TS”), Tailwind Crossings, LLC (“TWC”), Ponds of Menasha, LLC (“POM”), Fieldstone Investments, LLC (“FI”), Centennial Centre, LLC (“CC”), Jeffrey T. Marlow (“Marlow”), Michelle L. Stimpson (“Stimpson”), and Greg Wells (“Wells”) (collectively, “Defendants”), by their attorney, Frank W. Kowalkowski; and the Intervening Defendant, ACUITY, A Mutual Insurance Company (“Acuity”), by its attorney, Christine Rice, jointly move for an Order amending the scheduling order. The factual basis for this motion is as follows:

The Court entered a Scheduling Order in this matter on January 22, 2015 (Dkt. 26) which set the following deadlines and other dates:

Party with burden of proof to produce experts' reports	July 17, 2015
Responsive experts' reports to be produced	August 17, 2015
Rebuttal experts' reports produced	September 18, 2015
Discovery cut-off	October 30, 2015
Filing of dispositive motions	December 7, 2015
Final pretrial conference	April 1, 2016
Jury trial	April 18, 2016

Due to difficulties encountered by Defendants, they provided reports from four (4) designated experts (on "burden of proof issues") to Plaintiffs on August 12, 2015. Plaintiffs consented to this extension of time with the intent of being able to depose each of Defendants' three experts within a three week period after the reports were produced so that responsive experts could be identified within two weeks thereafter, additional expert and fact discovery could be concluded, and the parties could still meet the dispositive motion date provided in the Scheduling Order.

However, because of conflicts experienced in attempting to coordinate the calendars of three trial counsel and four expert witnesses, two of the witnesses could not be scheduled for deposition until September 14, which have been concluded. The remaining two experts were deposed yesterday and today, September 21 and 22, 2015.

After concluding the depositions of Defendants' experts, Plaintiffs will require three to four weeks in which to have responsive experts' reports prepared. Once these reports are

exchanged, the parties anticipate they will require another six weeks in which to depose Defendants' experts, have any rebuttal reports prepared, and thereafter complete discovery.

Based upon the foregoing, the parties jointly request that the Court extend the remaining Scheduling Order dates by 60 days and amend the Scheduling Order as follows:

Responsive experts' reports to be produced	October 21, 2015
Rebuttal experts' reports produced	December 1, 2015
Discovery cut-off	January 15, 2016
Filing of dispositive motions	February 22, 2016
Final pretrial conference and jury trial, on or after	June 15, 2016

Dated this 22nd day of September, 2015.

LEJUNE LAW FIRM

By: s/Dana A. LeJune
Dana A. LeJune
Texas Bar No.: 12188250
email: dlejune@triallawyers.net
6525 Washington Avenue
Suite 300
Houston, Texas 77007
713/942.9898 Telephone
713/942.9899 Facsimile

and

HOPKINS LAW FIRM

By: s/Michael T. Hopkins
Michael T. Hopkins
SBN: 1014792
email: mth@ip-lit.us
757 N. Broadway, Suite 201

Milwaukee, WI 53202
Tel/Fax: 888-227-1655

Counsel for Plaintiffs

DAVIS & KUELTHAU, S.C.

By: s/Frank W. Kowalkowski
Frank W. Kowalkowski
State Bar No. 1018119
Anthony J. Steffek
State Bar No. 1053615
318 S. Washington Street, Suite 300
Green Bay, WI 54301

Direct contact information:
Frank W. Kowalkowski
920.431.2221 direct dial
920.431.2261 direct fax
fkowalkowski@dkattorneys.com
Anthony J. Steffek
920.431.2237 direct dial
920.431.2277 direct fax
asteffek@dkattorneys.com

Counsel for Defendants

and

SIMPSON & DEARDORFF, S.C.

By: s/Christine M. Rice
Christine M. Rice
State Bar No. 1055158
email: rice@simpsondeardorff.com
311 East Chicago Street, Suite 410
Post Office Box 2183
Milwaukee, WI 53201-2183
414-273-8550 Telephone
414-273-8551 Fax

Counsel for ACUITY, A Mutual
Insurance Company